



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUL 22 2004

Giordano for U.S. Senate Committee and its treasurer

RE: MUR 5453
Giordano for U.S. Senate Committee
and its treasurer

Dear Mr. Giordano:

On May 18, 2004, the Federal Election Commission ("the Commission") found that there is reason to believe the Giordano for U.S. Senate Committee and its treasurer (the "Committee") violated 2 U.S.C. §§ 441b(a), 441a(f), 432(i), and 434(b)(3)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission also found reason to believe that the Committee violated 2 U.S.C. § 434(a) for failure to file the 2002 Year-End Report. However, after considering the circumstances, the Commission determined to take no further action against the Committee for failure to file that report. Lastly, the Commission determined to take no further action against the Committee regarding the reason to believe finding made in AF # 713 with respect to the 2002 Mid-Year Report. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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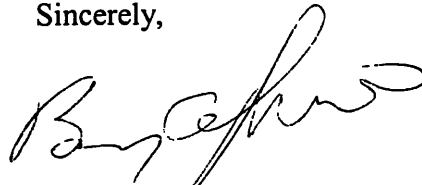
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Giordano for U.S. Senate Committee and
its treasurer

MUR: 5453

I. GENERATION OF THE MATTER

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This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).¹ This information revealed several areas of violation. First, the Giordano for U.S. Senate Committee ("the Committee") accepted a \$300,000 loan from Patriot National Bank ("the Bank"), which does not appear to be supported by adequate collateral. The loan transaction raises questions whether the Committee accepted a prohibited contribution from a national bank and whether it accepted excessive individual contributions from the candidate's family members in connection with the loan's collateral. Second, the Committee received apparent excessive individual contributions from six other contributors. Third, the Committee received apparent prohibited corporate contributions from seven corporations. Fourth, the Committee failed to provide contributor information for a significant percentage of the contributions received from individuals during the 2000 election cycle, and failed to use "best efforts" to obtain the missing contributor information as required by

¹ All of the facts in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended, ("the Act"), herein are as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA.

11 C.F.R § 104.7. Finally, the Committee failed to file the 2002 Mid-Year and Year-End Reports.

II. BACKGROUND

A. The Patriot National Bank Loan

Philip Giordano was a candidate for the office of United States Senator from Connecticut in the 2000 election. The Committee² filed a 2000 April Quarterly Report on April 19, 2000, disclosing a \$200,000 loan from the Bank, obtained on February 25, 2000.³ The Schedule C-1 included with the report showed the collateral for this loan as cash on deposit and future contributions to be received by the Committee. The Schedule C showed both the candidate and his father-in-law, Salvatore Trovato, as co-guarantors of the loan.⁴ Mr. Trovato was on the Board of Directors of the Bank at this time.⁵

² According to Statements of Organization on file with the Commission, on February 8, 2000, James Paolino was named as treasurer of the Giordano Congressional Exploratory Committee. On March 17, 2000, Michael Blumenthal was named as treasurer of the Giordano for U.S. Senate Committee, the candidate's principal campaign committee. On July 15, 2000, Thomas M. Ariola, Jr. was named as deputy treasurer of the principal campaign committee. A subsequent letter from Mr. Paolino to the Commission explained that the 2000 July Quarterly Report marked the termination of the candidate's Exploratory Committee and the commencement of his principal campaign committee.

³ The Commission received an undated letter from Mr. Paolino stating that the Giordano Congressional Exploratory Committee obtained the original \$200,000 loan. The letter states, "in anticipation of the termination of the Exploratory Committee, the Giordano for U S Senate Committee has assumed this loan and increased its obligation to a total of \$300,000." For simplicity's sake, this analysis will refer to the loan as an obligation of "the Committee."

⁴ The Committee's 2000 July Quarterly Report, filed on July 10, 2000, continued to disclose the \$200,000 loan, but neither the candidate nor his father-in-law were listed as guarantors and the Schedule C-1 was blank.

⁵ The U.S. Securities and Exchange Commission Form 10-K for Patriot National Bancorp, Inc., a one-bank holding company for Patriot National Bank, lists Mr. Trovato as one of the Directors for Bancorp for the Fiscal Year ending December 31, 2000. See also U.S. Securities and Exchange Commission Schedule 14A, Proxy Statement, April 28, 2000 (according to the Proxy Statement, Mr. Trovato has been Vice Chairman of the Board of Directors of Bancorp and Patriot National Bank since 1995, and owns 103,258 shares of stock, or 4.72% of Bancorp's outstanding shares); see also David Hammer, *Giordano Campaign Loan Faces Scrutiny*, REPUBLICAN-AMERICAN, August 5, 2001 (reported that Mr. Trovato holds 118,658 shares of stock of Patriot National Bancorp, Inc., equal to 4.89% of Bancorp's outstanding shares).

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1 By cover letter signed by the candidate, the Committee, on July 17, 2000, filed an
2 amended 2000 July Quarterly Report, disclosing information about a loan incurred on July 14,
3 2000 from the Bank in the amount of \$300,000.⁶ The Schedule C-1 showed the collateral for the
4 loan to be a certificate of deposit valued at \$300,000 and the Schedule C lists the candidate as
5 guaranteeing the entire \$300,000. The attached loan document describes the collateral as "Patriot
6 National Bank Certificate of Deposit in the Name of Dawn Giordano under Account No.

7
8 On August 30, 2000, the Committee filed a second amended 2000 July Quarterly Report,
9 which included a cover letter, a revised Schedule C-1 and copy of a revised loan agreement with
10 the Bank for the \$300,000 loan. Those documents appear to show that the collateral for the loan
11 was (1) the candidate's one-half interest in a certificate of deposit in the amount of \$300,000
12 (\$150,000), (2) the candidate's one-half interest in real estate owned by him and his spouse
13 (\$110,000), and possibly (3) the Committee's cash-on-hand or future contributions and receipts.⁷
14 The certificate of deposit is identified as a "Patriot National Bank Certificate of Deposit in the
15 names of Dawn Giordano & Philip A. Giordano under account the same
16 account number in which the certificate of deposit in the name only of Dawn Giordano had
17 formerly been shown. The real property making up part of the collateral is a Mortgage of
18 Property located at 157 Southwind Road, Waterbury, Connecticut. An attached sheet to the

⁶ Although the Schedule C-1 accompanying the Report states that the disclosed loan was not restructured, a Schedule C-1 filed with the Committee's Second Amended 2000 July Quarterly Report shows that the \$300,000 loan represented a restructuring of the loan which occurred in February 2000. See also footnote 4.

⁷ The cover letter states that the Committee's cash-on-hand (then \$2,829.82) was also pledged as part of the collateral for the loan; however, the Schedule C-1 filed by the Committee states that future contributions and receipts in the amount of \$50,000 are pledged as collateral for the loan. The revised loan agreement does not mention either the Committee's cash-on-hand or future receipts as collateral for the loan. The Schedule C-1 states that the (Footnote continues next page)

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1 revised loan agreement appears to show an opening of an account on July 14, 2000 with an initial
2 deposit of a check for \$300,000, and a withholding statement signed only by Dawn Giordano.

3 On the same sheet, additional information is displayed for what appears to be account number
4 (the number is difficult to read) in the names of the candidate and his wife,
5 showing it to be a "certificate of deposit" type account, with the signature of the candidate

6 followed by the date of and the signature of his wife followed by the date of

7 The cover letter accompanying the August 30 filing purports to be proffering an
8 "addendum" to the Committee's July 17, 2000 filing as an "attempt[] to correct all previous
9 errors and . . . to conform our report to FEC regulations." According to the cover letter:

10 As you know, the previous report collateralized the loan above mentioned with a
11 Certificate of Deposit of \$300,000 held in the name of Dawn Ann Giordano,
12 Philip A. Giordano's spouse. The Certificate of Deposit was a gift made to Mr.
13 and Mrs. Giordano from Mrs. Giordano's father. Similar gifts were made to all
14 Mrs. Giordano's siblings and their spouses. The Certificate was given jointly in
15 both names. This would allow us to collateralize \$150,000.00 of said loan with
16 Mr. Giordano's half interest in the Certificate.

17
18 With respect to the portion of the collateral composed of the real estate owned by the
19 candidate and his wife, the cover letter states that the "fair market value of said premises is
20 estimated to be \$220,000.00 of which \$110,000.00 of equity is imputed to" the candidate. The
21 loan agreement itself does not show a fair market value for the real estate nor are there any
22 accompanying papers documenting a fair market value of \$220,000. The mortgage deed between
23 the Bank and the Giordanos, dated August 15, 2000, states that their arrangement is subject to an
24 encumbrance on the real estate consisting of a "Mortgage to Metro Mortgage Corporation in the
25 original principal amount of \$124,000.00 dated February 16, 1999."

candidate's one-half value of the certificate of deposit and the real estate is valued at \$250,000. The Schedule C shows the candidate as the sole guarantor for the amount of \$300,000

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1 In response to two Requests for Additional Information ("RFAs") dated September 19,
2 2000, and Second Notices dated October 12, 2000, the Committee filed amendments to its 2000
3 April and July Quarterly Reports on November 1, 2000.⁸ The cover letter dated October 28,
4 2000 states that the original \$200,000 loan, due to a misunderstanding on the part of the
5 campaign and the Bank, "was made in violation of FEC rules," but that the "loan was corrected
6 as to FEC requirements and also increased to an indebtedness of \$300,000." According to the
7 cover letter, the \$300,000 loan

8 was secured with one half of a certificate of deposit held jointly by Mr. And
9 [sic] Mrs. Giordano, on [sic] half the equity in Mr. and Mrs. Giordano's jointly
10 held home, and cash on deposit in the Senate Committee account. The bank
11 was satisfied that this was adequate collateral for this line of credit. I am under
12 the impression that this also satisfies FEC requirements. The certificate of
13 deposit was originally a family gift given to the Giordano family. The timing of
14 the gift coincided with a financial event with the family. It was not related to
15 the Senate committee[sic] and would have happened regardless of the Senate
16 race.
17

18 On July 3, 2001, the Commission sent the Committee an RFAI referencing the amended
19 2000 July Quarterly Report dated August 21, 2000. The RFAI questioned whether the
20 candidate's wife had made an excessive contribution in connection with the real estate portion of
21 the collateral and sought an amendment clarifying information pertinent to that part of the loan
22 transaction. The Commission sent the Committee a Second Notice on July 26, 2001 for failure
23 to respond to the RFAI. The Committee has never responded to the RFAI.⁹

⁸ The RFAI dated September 19, 2000 inquired about the original \$200,000 loan and asked the Committee to provide the Schedules C and C-1 pertaining to that loan. On November 27, 2000 the Committee amended its 2000 July Quarterly Report for a fourth time and included the Schedules C and C-1 as requested.

⁹ One news article published in August 2001 quoted Charles Howell, President and Chief Executive Officer of Patriot National Bank as saying, "[t]he loan was re-paid at maturity [Feb 24, 2001]. The details regarding the loan were reported to the Federal Elections [sic] Commission." David Hammer, *Giordano Loan Faces Scrutiny*, REPUBLICAN-AMERICAN, August 5, 2001. The article also reports that although Mr. Ariola told the reporter that in July 2001 he planned to file the FEC disclosure reports concerning the loan's repayment, the candidate was arrested (Footnote continues next page.)

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1 1. Analysis of The Patriot National Bank Loan Transaction

2 The circumstances surrounding the receipt and ownership of the certificate of deposit and
3 the valuation of the candidate's equity in his home, both of which were used to collateralize a
4 \$300,000 loan to the Committee, raise issues as to whether the Committee accepted excessive
5 individual contributions from the candidate's wife and his father-in-law. The Act prohibits any
6 person from making contributions "to any candidate and his authorized political committee with
7 respect to any election for Federal office which, in the aggregate, exceeds \$1,000." 2 U.S.C.
8 § 441a(a)(1)(A). The Act also prohibits any individual from making "contributions aggregating
9 more than \$25,000 in any calendar year." 2 U.S.C. § 441a(a)(3). Political committees, its
10 officers and employees, are prohibited from knowingly accepting excessive contributions.
11 *See* 2 U.S.C. § 441a(f).

12 Contributions from members of a candidate's family are subject to the same limits that
13 apply to any other individuals. *See* S. Conf. Rep. No. 93-1237, at 58 (1974), *reprinted in* 1974
14 U.S.C.C.A.N. 5587, 5627 ("[T]he immediate family of any candidate shall be subject to the
15 contribution limitations established by this legislation.....[A]n immediate family member would
16 be permitted merely to make contributions to the candidate in amounts not greater than \$1,000
17 for each election involved."); *see also Buckley v. Valeo*, 424 U.S. 1, 53 n.59 (1976) (upholding
18 application of contribution limitations to family members).

in July and federal agents took possession of all the Committee's records at the time of his arrest, preventing Mr Ariola from actually filing the Reports concerning the loan's repayment *See id* None of the Committee's Reports on file with the FEC to date disclose any information about the reported loan's repayment

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1 Mr. Giordano was a candidate by July 14, 2000 when his father-in-law purportedly gifted
2 the \$300,000 certificate of deposit.¹⁰ As noted *supra*, the Committee asserted that it realized that
3 the original \$200,000 loan, for which Mr. Trovato was a guarantor, "violated FEC rules"
4 (presumably because Mr. Trovato's guarantee would constitute an excessive contribution on its
5 face pursuant to 2 U.S.C. §§ 441a(a)(1)(a) and (a)(3) and 11 C.F.R. §§ 110.1(b) and 110.5(b)).
6 The timing of the transmission of the certificate of deposit (or the funds to purchase it) to be used
7 as collateral for the restructured \$300,000 loan indicates that it may have been an attempt to
8 accomplish a similar result through alternative means. Moreover, the conflicting information
9 concerning whether the certificate of deposit was in the name of the candidate's wife alone or in
10 both names, the confusing account opening information, and the discrepancies concerning
11 whether the Committee's cash-on-hand or future receipts were part of the collateral also bear
12 further scrutiny. Among the possible circumstances, if the candidate's father-in-law gifted the
13 certificate of deposit to both the candidate and his wife, that gift might constitute an excessive
14 contribution by him to the Committee.¹¹ Any candidate who receives a contribution in
15 connection with his or her campaign shall be considered as having received that contribution as
16 an agent of his or her authorized committee. See 2 U.S.C. § 432(e)(2). If, on the other hand, the
17 candidate's father-in-law gave his daughter \$300,000, and she in turn used that money to

¹⁰ Mr. Giordano's Committee reported \$55,900 in contributions and \$197,900 in expenditures on its 2000 April Quarterly Report. These figures are well in excess of the threshold amount of \$5,000 in aggregate contributions or aggregate expenditures required to meet the definition of the term "candidate" under 2 U.S.C. § 431(2)

¹¹ Candidates for federal office may make unlimited expenditures from personal funds, including from gifts of a personal nature which had been customarily received prior to candidacy. See 11 C.F.R. § 110.10(b)(2). However, the Commission currently lacks information that the certificate of deposit fits into this category.

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1 purchase a \$300,000 certificate of deposit for herself and the candidate, that might result in an
2 excessive contribution by the candidate's wife to the Committee.

3 With respect to the real estate portion of the collateral, the revised loan agreement showed
4 a \$124,000 preexisting mortgage on the property in 1999. Although the principal balance of the
5 mortgage likely had fallen slightly by 2000, for purposes of this analysis, and assuming that
6 \$220,000 was indeed the property's fair market value, the candidate's equity in the home appears
7 to have been approximately one-half of \$220,000 (FMV) minus \$124,000 (the amount of the
8 mortgage), or \$48,000, rather than the \$110,000 stated as collateral for the loan. There is a
9 possibility, if the preexisting mortgage had been considerably paid down by 2000, that the
10 candidate and his wife together had enough equity in the home to support the collateral; but by
11 needing more than the candidate's one-half interest for this purpose, the candidate's wife may
12 have made an excessive contribution. While a candidate may obtain a loan on which his or her
13 spouse's signature is required when jointly owned assets are used as collateral for the loan, the
14 spouse is not considered a contributor to the candidate's campaign if the value of the candidate's
15 share of the property used as collateral equals or exceeds the amount of the loan which is used for
16 the candidate's campaign. 11 C.F.R. § 100.7(a)(1)(i)(D).

17 If the candidate's wife or father-in-law made excessive contributions to the candidate or
18 the Committee, the Committee may have violated 2 U.S.C. § 441a(f) for accepting excessive
19 contributions.

20 The available facts also suggest that the Committee may have accepted a prohibited
21 contribution from the Bank. The Act prohibits any candidate, political committee, or other
22 person from knowingly accepting or receiving any contributions from national banks. 2 U.S.C.

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§ 441b(a). A loan by a national bank is not a contribution by the lending institution if it is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. 11 C.F.R. § 100.7(b)(11). A loan will be deemed to be made in the ordinary course of business if, among other things, it is made on a basis which assures repayment. *Id.* A loan shall be considered “made on a basis which assures repayment” if the lending institution making the loan has perfected a security interest in collateral owned by the candidate or political committee receiving the loan, the fair market value of the collateral is equal to or greater than the loan amount and any senior liens as determined on the date of the loan, and the candidate or political committee provide documentation to show that the lending institution has a perfected security interest in the collateral. 11 C.F.R. § 100.7(b)(11)(i)(A)(I).

Even if there were no issues surrounding the candidate’s share of the certificate of deposit and the real estate purportedly collateralizing \$150,000 and \$110,000, respectively, of the \$300,000 loan from the Bank, the collateral listed in the loan agreement falls short by approximately \$40,000. Moreover, it appears from the loan documents that the Bank knew of the previous mortgage on the real estate, and took its secured interest subject to it, reducing even further the known value of the candidate’s equity in the property. Based on the candidate’s father-in-law’s position as a member of the Bank’s Board, questions also arise concerning his possible participation in, or influence over, the granting of a possible substandard loan. If the loan was under-collateralized, the Committee may have accepted a contribution from the Bank prohibited by 2 U.S.C. § 441b(a).

Therefore, there is reason to believe the Giordano for U.S. Senate Committee and its treasurer violated 2 U.S.C. §§ 441a(f) and 441b(a).

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B. Other Excessive Individual Contributions

A review of the Committee's disclosure reports shows that the Committee received, and has not refunded, reattributed or redesignated excessive individual contributions totaling \$26,500 as follows¹²:

CONTRIBUTOR	CONTRIBUTION AMOUNT	DATE	ELECTION DESIGNATION	REPORT	EXCESSIVE AMOUNT
Allocco, Elizabeth	\$1,000	9/15/00	General	October Quarterly	
Allocco, Elizabeth ¹³	\$1,000	9/15/00	General	October Quarterly	\$1,000
Capelletti, Joann	\$1,000	6/28/00	General	July Quarterly	
Capelletti, Joann	\$250	10/18/00	Not designated	30-Day Post-General	\$250
Decaro, Angelo	\$2,000	10/03/00	Not designated	30-Day Post-General	\$1,000
Longino, Timothy	\$1,800	10/30/00	Not designated	30-Day Post-General	\$800
Longino, Timothy	\$22,200	10/30/00	Not designated	30-Day Post-General	\$22,200
Paolino, James	\$1,000	5/25/00	General	July Quarterly	
Paolino, James	\$1,000	6/28/00	General	July Quarterly	\$1,000
Pinto, Paul	\$1,000	10/27/00	Not designated	30-Day Post-General	
Pinto, Paul	\$250	4/12/00	General	April Quarterly	\$250

¹² These apparent excessive individual contributions appeared on the Committee's 2000 April, July and October Quarterly and 30-Day Post-General Reports. The Commission sent RFAs to the Committee on July 3, 2001 and July 17, 2001, and Second Notices on July 26 and August 9, 2001. In response, the Committee cured only one of the excessive individual contributions. That contribution is not listed here.

¹³ The October Quarterly Report discloses a \$1,000 contribution from Elizabeth Allocco on September 15, 2000 and a \$2,000 contribution from Michael and Elizabeth Allocco on September 15, 2000. For purposes of this analysis, \$1,000 of the latter \$2,000 contribution is being attributed to Elizabeth Allocco. See 11 C.F.R. § 110.1(k)(3).

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The Act prohibits any person from making contributions “to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceeds \$1,000.” 2 U.S.C. § 441a(a). A contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). Political committees are prohibited from knowingly accepting excessive contributions. *See* 2 U.S.C. § 441a(f).

Therefore, there is reason to believe the Giordano for U.S. Senate Committee and its treasurer violated 2 U.S.C. § 441a(f).

C. Corporate Contributions

The Committee received and deposited what appear to be seven corporate contributions totaling \$6,750 as follows¹⁴:

CORPORATION'S NAME	AMOUNT OF CONTRIBUTION	DATE
Diabes Brothers, Inc.	\$1,000	10/27/00
Diabes Brothers, Inc. II	\$1,000	10/27/00
DiBacco Plumbing & Heating, Inc.	\$500	10/7/00
En-Tech Corporation	\$2,500	10/14/00
Northeast Cosmetology, Inc.	\$500	10/1/00
R.P.V.	\$1,000	10/10/00
The Red Lion, Inc.	\$250	10/4/00

¹⁴ The Commission sent RFAs concerning the apparent prohibited corporate contributions on July 3, 2001 (referencing the 2000 October Quarterly Report) and July 17, 2001 (referencing the 2000 30-Day Post-General Report) and Second Notices on July 26, 2001 and August 9, 2001, respectively. The Committee did not respond

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Pursuant to 2 U.S.C. § 441b(a), it is unlawful for corporations to make a contribution in connection with any election for Federal office, "or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section." It does not appear from the Committee's disclosure reports that the Committee has refunded any of the corporate contributions listed above.

Therefore, there is reason to believe the Giordano for U.S. Senate Committee and its treasurer violated 2 U.S.C. § 441b(a).

D. Failure to Provide Contributor Information

A review of the Committee's disclosure reports shows that the Committee failed to provide some or all of the required contributor information, including addresses, occupations, employers and dates, for a total of 763 of 887, or approximately 86%, of the total number of itemized contributions from individuals for certain reports filed in the 2000 election cycle. The 2000 April and July Quarterly Reports provided the required contributor information. However, beginning with the 2000 October Quarterly Report, the Committee failed to provide complete contributor information for a progressively increasing number of contributors. For example, the 2000 October Quarterly Report failed to provide complete contributor information for 124 of 217, or 57%, of the itemized individual contributions disclosed. The 2000 12-Day Pre-General Report failed to provide complete contributor information for 11 of 17, or 64%, of the itemized individual contributions disclosed. The 2000 30-Day Post General Report failed to provide complete contributor information for all 308 itemized contributions. Finally, the 2000 Year-End Report failed to provide complete contributor information for 320 of 345 of the itemized individual contributions disclosed. The missing information in these reports varied, and in some

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1 cases omitted all required information other than the purported donor's name and the amount of
2 the contribution.

3 On July 3, 17 and August 9, 2001, the Commission sent RFAs to the Committee noting
4 that it failed to provide required contributor information pursuant to 2 U.S.C. § 434(b) and
5 explained the procedures for demonstrating "best efforts" under 2 U.S.C. § 432(i).¹⁵ In response
6 to the July 3, 2001 RFAI, the Committee, on July 18, 2001, filed an Amended 2000 October
7 Quarterly Report which included a sample letter from the Committee to contributors who failed
8 to include occupation and employer information. That letter reads as follows:

9 Thank you so much for the generous contribution to the *Giordano*
10 *for U.S. Senate* Campaign. Being able to count on support from
11 people like you is what energized this campaign. I would ask that
12 you do one small favor for me. In accordance with federal
13 campaign law, donors must complete a donor card. The
14 information provided will be used to complete federal financial
15 disclosure documents only and will not be used for any other
16 purpose. Please complete and mail the attached information card
17 as soon as possible. Thank you for your assistance in this very
18 important matter.
19

20 The sample letter itself does not include the statements necessary to establish "best
21 efforts", because it does not request the contributor's full name, mailing address, occupation and
22 name of employer, nor does it include an accurate statement of the federal law regarding

¹⁵ When the treasurer of a political committee shows that "best efforts" have been used to obtain, maintain, and submit the information required by the Act, any reports, or records of such committee are considered in compliance with the Act. 2 U.S.C. §§ 432(i), 434(b) and 11 C.F.R. § 104.7(a). For each contribution received that exceeds \$200 and lacks required contributor information, a treasurer may establish "best efforts" by making at least one request for the information after the contribution is received. 11 C.F.R. § 104.7(b)(2). Such effort shall consist of a written request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of the federal law regarding collection and identification of contributor data, and be made no later than 30 days after receipt of the contribution. *Id.*

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1 collection and identification of contributor data. *See* 11 C.F.R. § 104.7(b)(2).¹⁶ While there may
2 have been a donor card attached to the letter, no such card was provided with the Committee's
3 submission to the Commission. The Committee also failed to provide evidence that the letter
4 and donor card had been sent within 30 days after receipt of the contribution, or that a pre-
5 addressed return postcard or envelope was provided for the response material as required by the
6 regulations. *See id.* The Committee did not respond at all to the August RFAI, and to date has
7 not amended any of its 2000 disclosure reports to show additional identifying contributor
8 information.

9 Therefore, there is reason to believe the Giordano for U.S. Senate Committee and its
10 treasurer violated 2 U.S.C. §§ 432(i) and 434(b)(3)(A).

11 E. Late Filed Reports

12 The Committee also failed to file the 2002 Mid-Year and Year-End Reports. In
13 Administrative Fines case ("AF") # 713, the Commission had already found reason to believe the
14 Committee violated 2 U.S.C. § 434(a) for failing to file the 2002 Mid-Year Report. Although the
15 Committee did not provide a written response to the reason to believe notification in AF # 713, it
16 did respond to earlier Administrative Fines cases concerning the Committee's failure to file the
17 2001 Mid-Year and Year-End Reports. In those responses, the Committee stated that its
18 financial records were within the control of the United States Department of Justice and the
19 Federal Bureau of Investigation due to search warrants executed, and therefore, the Committee
20 was precluded from filing the requisite reports. Absent any information that the circumstances
21 surrounding the Committee's financial records have changed, the Commission has determined to

¹⁶ For example, an acceptable statement for an authorized committee is "Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose (Footnote continues next page)

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- 1 take no further action against the Giordano for U.S. Senate Committee and its treasurer regarding
- 2 the 2002 Mid-Year Report. Further, the Commission finds that there is reason to believe that the
- 3 Giordano for U.S. Senate Committee and its treasurer violated 2 U.S.C. § 434(a) regarding the
- 4 2002 Year-End Report, but has determined to take no further action regarding that report.